

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

MB TOWN CENTER, LP,)	ED96551
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court
v.)	of St. Louis County
)	
CLAYTON FORSYTH FOODS, INC.,)	Honorable Mark D. Seigel
)	
Defendant/Appellant.)	Filed: January 10, 2012

Appellant Clayton Forsyth Foods, Inc. (CFF) appeals from the trial court's entry of a permanent injunction against CFF. Angela Lampert and Larry Lampert (the Lamperts, collectively) have been permitted to intervene on appeal as additional Appellants.

On appeal, Appellants argue that the trial court erred in entering a permanent injunction prohibiting them from filing, publicizing, or disseminating any document, information, or material that in any way makes any reference to the building at issue; MB Town Center, LP; and others affiliated with MB Town Center because (I) MB Town Center failed to demonstrate irreparable harm, defamation, or slander of title, and thus was not entitled to an injunction; (II) the injunction violates the United States and Missouri Constitutions because it is an impermissible content and speaker-based prior restraint on speech that neither supports a compelling government interest nor is narrowly tailored to any government interest and is vague; (III) the Lamperts were deprived of due process when their future speech was enjoined without their being parties to the case or having the opportunity to be heard; and (IV) the injunction is contrary to Missouri law and public policy in that it arose out of an impermissible strategic lawsuit against public participation.

AFFIRMED and REMANDED with directions.

Division Four Holds: The trial court committed no evident, obvious, or clear error in granting MB Town Center a permanent injunction. Furthermore, Appellants have waived consideration of their points that the injunction violates the U.S. and Missouri Constitutions and is contrary to Missouri law and public policy for failing to raise these issues in the trial court, and this Court declines to exercise its discretion to review said points for plain error. With regard to Appellants' contention that the court deprived the Lamperts of due process for issuing the injunction without providing them notice and an opportunity to be heard, this Court remands to the trial court for clarification of the Permanent Injunction as to whether the Lamperts are enjoined individually or only in their capacity as representatives of CFF.

Opinion by: Sherri B. Sullivan, J. Patricia L. Cohen, P.J., and Robert M. Clayton, III, J., concur.

Attorneys for Appellants: Michael A. Gross, Anthony E. Rothert, and Grant R. Doty

Attorneys for Respondent: JoAnn T. Sandifer, John H. Richmond, and Andrew R. Gilfoil

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.